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Before the
Federal Communications Commission
Washington, D.C. 20054

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SEP 28 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's Rules)
To Ensure Compatibility with)
Enhanced E911 Emergency Calling Systems)

CC Docket 94-102

**WIRELESS ALLIANCE, L.L.C.
PETITION FOR TEMPORARY WAIVER OF THE
E911 PHASE II ENHANCED WIRELESS SERVICES**

Wireless Alliance, L.L.C. (hereinafter "Petitioner"), by its attorneys, hereby requests a temporary waiver of the wireless E911 location technology phase-in requirements of the Commission's rules, 47 C.F.R. 20.18(f)¹ and (g)² in the states of Minnesota, South Dakota and North Dakota. Specifically, Petitioner seeks a temporary waiver of the requirement that Commercial Mobile Radio Service (CMRS) carriers selecting a hybrid Phase II E-911 solution follow a phased in implementation schedule beginning October 1, 2001. As set forth below Petitioner's system is managed and operated in conjunction with APT Minneapolis, Inc. (a subsidiary of VoiceStream Wireless Corporation, hereinafter "VoiceStream") which has previously obtained a waiver of the Commission's Phase II requirements.³ Petitioner therefore proposes to

¹ *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Third Report and Order, FCC 99-245, released October 6, 1999

² *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd. 17442 (released, September 8, 2000) ("Fourth MO&O")

³ See *Fourth MO &O* at 17463.

follow the modified implementation schedule proposed by VoiceStream and granted by the Commission such that Phase II E-911 service implementation will begin by December 31, 2001. Such a request is consistent with the Commission's goals in this E-911 proceeding and is in the public interest.

I. Background

1. Petitioner is a Personal Communications Services provider which offers wireless telecommunications service in portion of Minnesota, South Dakota and North Dakota. Petitioner is 70% owned and controlled by Rural Cellular Corporation ("RCC"), a Minnesota corporation whose stock is publicly traded, and 30% owned by VoiceStream. As a 30 % interest holder in Petitioner, VoiceStream also manages and operates Petitioner's network in conjunction with its own. On September 8, 2000, the Commission granted VoiceStream approval of its hybrid solution to permit it to employ an ALI solution that requires changes to both its network and handsets, subject to the following conditions and requirements:

- VoiceStream must implement a network safety solution that provides baseline location information for all wireless 911 calls no later than December 31, 2001.
- The accuracy requirement for this baseline location information is 1000 meters for 67 percent of calls.
- By October 1, 2001, VoiceStream must ensure that 50 percent of all new handsets activated are Enhanced Observed Time Difference of Arrival (E-OTD)-capable.
- Effective October 1, 2001, VoiceStream must ensure that all E-OTD-capable handsets comply with an accuracy requirement of 100 meters for 67 percent of calls, 300 meters for 95 percent of calls.

- By March 31, 2002, VoiceStream must ensure that 100 percent of all new handsets activated are E-OTD-capable.
- VoiceStream must ensure that all new E-OTD-capable handsets activated on or after October 1, 2003 comply with an accuracy requirement of 50 meters for 67 percent of calls, 150 meters for 95 percent of calls.
- VoiceStream must report the results of all trials and tests of its ALI technology and of actual operational deployment of its ALI technology and results semi-annually beginning October 1, 2000 and continuing through October 1, 2003.⁴

It is Petitioner's intention that the same hybrid solution will be applied by VoiceStream to Petitioner's network and handsets and the approved deadlines will be met.

II. Discussion

Generally, the Commission's rules may be waived when there is good cause shown⁵ and "when special circumstances warrant deviation from the general rule, and such deviation will serve the public interest."⁶ In the context of E-911, the Commission has recognized that individual waivers that are "specific, focused and limited in scope, and with a clear path to compliance" may be granted where due to "technology-related issues" or "exceptional circumstances," a wireless carrier is unable to meet the October 1, 2001 deadline.⁷

⁴ *Id.* at 17444.

⁵ 47 C.F.R. § 1.3.

⁶ *Fourth MO&O* at 17457; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing *WAIT Radio V. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁷ *See id.*

Petitioner submits that its waiver request is specific, focused and limited in scope. Petitioner only seeks a limited temporary waiver to the extent that the Commission has granted VoiceStream a waiver of the Section 20.18. Petitioner's good faith efforts to comply with Section 20.18 coincide with the actions of VoiceStream and its deployment of Phase II since the network systems are one and the same.

Second, Petitioner's request is structured with a "clear path to compliance." Rather than request a "broad, generalized waiver"⁸ or an indefinite extension, Petitioner will follow a formulated and previously approved schedule implementation as described herein.

Third, Petitioner is unable to comply with the Commission's Phase II requirements independent of VoiceStream. Petitioner faces the technological problem of its network being managed and operated by one of its interest holders, which is also another carrier. Petitioner's hands are tied in attempting to implement a solution by the October 1, 2001 deadline independent of VoiceStream.

Grant of the requested waiver is in the public interest. The public policy behind the Commission's E-911 rules is to meet important public safety needs as quickly as is reasonably possible.⁹ The Commission found in granting VoiceStream's waiver that VoiceStream's approach, if performed as planned, has substantial public safety benefits.¹⁰

⁸ *See id.*

⁹ *See Fourth MO&O*, 15 FCC Rcd at 17449.

¹⁰ *Id.* at 17463

III. Conclusion

For the reasons set forth above, Petitioner requests a temporary waiver of Sections 20.18(f) and (g) of the Commission's rules. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and temporary extension be granted as proposed.

Respectfully submitted,

WIRELESS ALLIANCE, L.L.C.

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September 28, 2001

DECLARATION

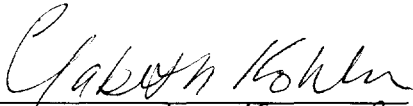
I, Elizabeth Kohler, hereby state and declare:

1. I am Legal Services Director of the Wireless Alliance, L.L.C. a Personal Communication Service provider in Minnesota, South Dakota and North Dakota.

2. I am familiar with the facts contained in the foregoing Petition For Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts, which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27 day of September 2001.


Elizabeth Kohler, Legal Services Director of
Wireless Alliance, L.L.C.

CERTIFICATE OF SERVICE

I, Loren Costantino, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 28th day of September, 2001, sent by hand-delivery, a copy of the foregoing PETITION FOR TEMPORARY WAIVER OF THE E911 PHASE II ENHANCED WIRELESS SERVICES to the following:

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Loren Costantino